

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

GERARD TRAVERS, on behalf of himself
and all others similarly situated,

Plaintiff,

-vs.-

FEDERAL EXPRESS CORPORATION,

Defendant

19-cv-6106-MAK

**PLAINTIFF'S NOTICE OF
SUPPLEMENTAL AUTHORITY**

Plaintiff respectfully submits as supplemental authority in opposition to Defendant's Motion to Dismiss (Dkt. No. 30), the Supreme Court's decision in *Bostock v. Clayton County*, No. 17-1618, 2020 WL 3146686 (U.S. June 15, 2020), attached as Exhibit A, which addresses issues raised by Defendant's Motion to Dismiss, including in the supplemental briefing. In *Bostock*, the Supreme Court addressed how courts should interpret the plain text of a statute where doing so could have an unexpected application in the view of one of the parties. *See Bostock*, slip op. at 23-25; *compare* Pl's Supp. Mem at 7-10 (Dkt. No. 47) *with* Def's Supp. Mem. at 5-10 (Dkt. No. 48). The Supreme Court opinion in *Bostock* also specifically addresses the inapplicability of the "elephants-in-mouseholes" canon to a remedial federal statute "written in starkly broad terms," and the Supreme Court's concern that "objections about unexpected applications [of statutory language] will not be deployed neutrally" but rather "neglect the promise that all persons are entitled to the benefit of the law's terms." *Bostock*, slip op. at 27-28, 30; *compare* Def's Mem. at 9 (Dkt. No. 30-2) (invoking no-elephants-in-mouseholes canon), *with* Pl's Opp. at 16-17 (Dkt. No. 36).

Dated: June 15, 2020

Respectfully submitted,

/s/ Adam H. Garner

Adam Harrison Garner (Bar I.D. 320476)
THE GARNER FIRM LTD.
1515 Market St. Suite 1200
Philadelphia PA 19102
Telephone: (215) 645-5955
Facsimile: (215) 645-5960
Email: adam@garnerltd.com

R. Joseph Barton (*pro hac vice*)
Colin M. Downes (*pro hac vice*)
BLOCK & LEVITON LLP
1735 20th Street, NW
Washington D.C. 20009
Telephone: (202) 734-7046
Fax: (617) 507-6020
Email: jbarton@blockesq.com
Email: colin@blockesq.com

Peter Romer-Friedman (*pro hac vice*)
GUPTA WESSLER PLLC
1900 L Street NW, Suite 312
Washington, D.C. 20036
Telephone: (202) 888-1741
Email: peter@guptawessler.com

Michael J. Scimone (*pro hac vice*)
OUTTEN & GOLDEN LLP
685 Third Avenue, 25th Floor
New York, New York 10017
Telephone (212) 245-1000
Email: mscimone@outtengolden.com

Matthew Z. Crotty (*pro hac vice*)
CROTTY & SON LAW FIRM, PLLC
905 W. Riverside Ave.
Suite 404
Spokane, WA 99201
Tel: (509) 850-7011
Email: matt@crottyandson.com

Thomas G. Jarrard (*pro hac vice*)
LAW OFFICE OF THOMAS G. JARRARD
LLC
1020 N. Washington St.
Spokane, WA 99201
Tel: (425) 239-7290
Email: Tjarrard@att.net

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on June 15, 2020, a copy of the foregoing Plaintiff's Notice of Supplemental Authority was served on the following counsel for Defendant via email and the Court's CM/EF system.

Melissa McCoy Gormly
Colleen Hitch Wilson
Federal Express Corporation
3620 Hacks Cross Road,
Building B, 3rd Floor
Memphis, TN 38125

Tristan Morales
O'Melveny & Myers LLP
1625 Eye Street, NW
Washington, DC 20006

Mark Robertson
O'Melveny & Myers LLP
Times Square Tower
7 Times Square
New York, NY 10036

Ryan Thomas Becker
Fox Rothschild LLP
2000 Market Street
20th Floor
Philadelphia, PA 19103
215-345-7500
Email: rbecker@foxrothschild.com

Attorneys for Defendant

/s/ Adam H. Garner

Adam Harrison Garner